



General Assembly

February Session, 2016

Raised Bill No. 5260

LCO No. 1283



Referred to Committee on LABOR AND PUBLIC EMPLOYEES

Introduced by:
(LAB)

AN ACT CONCERNING DOMESTIC SERVICE AND OVERTIME PAY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 31-76b of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 As used in sections 31-76b to 31-76j, inclusive:

4 (1) The "regular rate" at which an employee is employed shall be
5 deemed to include all remuneration for employment paid to, or on
6 behalf of, the employee, but shall not be deemed to include (A) sums
7 paid as gifts; payments in the nature of gifts made at Christmas time or
8 on other special occasions, as a reward for service, the amounts of
9 which are not measured by or dependent on hours worked,
10 production or efficiency; (B) payments made for occasional periods
11 when no work is performed due to vacation, holiday, illness, failure of
12 the employer to provide sufficient work, or other similar cause;
13 reasonable payments for traveling expenses, or other expenses,
14 incurred by an employee in the furtherance of the employer's interests
15 and properly reimbursable by the employer; and other similar

16 payments to an employee that are not made as compensation for the
17 employee's hours of employment; (C) sums paid in recognition of
18 services performed during a given period if either, (i) both the fact that
19 payment is to be made and the amount of the payment are determined
20 at the sole discretion of the employer at or near the end of the period
21 and not pursuant to any prior contract, agreement or promise causing
22 the employee to expect such payments regularly; (ii) the payments are
23 made pursuant to a bona fide profit-sharing plan or trust or bona fide
24 thrift or savings plan, meeting the approval of the Labor
25 Commissioner who shall give due regard, among other relevant
26 factors, to the extent to which the amounts paid to the employee are
27 determined with regard to hours of work, production or efficiency; (D)
28 contributions irrevocably made by an employer to a trustee or third
29 person pursuant to a bona fide plan for providing old-age, retirement,
30 life, accident or health insurance or similar benefits for employees; (E)
31 extra compensation provided by a premium rate paid for certain hours
32 worked by the employee in any day or workweek because such hours
33 are hours worked in excess of eight in a day or in excess of the
34 maximum workweek applicable to such employee under section 31-
35 76c, or in excess of the employee's normal working hours or regular
36 working hours, as the case may be; (F) extra compensation provided
37 by a premium rate paid for work by the employee on Saturdays,
38 Sundays, holidays or regular days of rest, or on the sixth or seventh
39 day of the workweek, where such premium rate is not less than one
40 and one-half times the rate established in good faith for like work
41 performed in nonovertime hours on other days; or (G) extra
42 compensation provided by a premium rate paid to the employee, in
43 pursuance of an applicable employment contract or collective-
44 bargaining agreement, for work outside of the hours established in
45 good faith by the contract or agreement as the basic, normal or regular
46 workday, not exceeding the maximum workweek applicable to such
47 employee under section 31-76c, where such premium rate is not less
48 than one and one-half times the rate established in good faith by the
49 contract or agreement for like work performed during such workday

50 or workweek. For the purpose of calculating the overtime rate of
51 compensation required to be paid to an employee who is (i) employed
52 as a delivery driver or sales merchandiser, (ii) paid on a base salary
53 and commission basis, and (iii) not exempt from the overtime
54 requirements of this chapter, the employee's regular rate shall be one-
55 fortieth of the employee's weekly remuneration;

56 (2) (A) "Hours worked" include all time during which an employee
57 is required by the employer to be on the employer's premises or to be
58 on duty, or to be at the prescribed work place, and all time during
59 which an employee is employed or permitted to work, whether or not
60 required to do so, provided time allowed for meals shall be excluded
61 unless the employee is required or permitted to work. Such time
62 includes, but shall not be limited to, the time when an employee is
63 required to wait on the premises while no work is provided by the
64 employer. (B) All time during which an employee is required to be on
65 call for emergency service at a location designated by the employer
66 shall be considered to be working time and shall be paid for as such,
67 whether or not the employee is actually called upon to work. (C) When
68 an employee is subject to call for emergency service but is not required
69 to be at a location designated by the employer but is simply required
70 to keep the employer informed as to the location at which he may be
71 contacted, or when an employee is not specifically required by his
72 employer to be subject to call but is contacted by his employer or on
73 the employer's authorization directly or indirectly and assigned to
74 duty, working time shall begin when the employee is notified of his
75 assignment and shall end when the employee has completed his
76 assignment. (D) Notwithstanding the provisions of this subdivision,
77 when an individual employed [by a third-party provider] to provide
78 ["companionship services"] "domestic service employment", as defined
79 in the regulations of the federal Fair Labor Standards Act, is required
80 to be present at a worksite for a period of not less than twenty-four
81 consecutive hours, such individual and his or her employer may agree
82 in writing to exclude from hours worked (i) meal time and other

83 periods of complete freedom from all duties when the employee may
 84 either leave the premises or stay on the premises for purely personal
 85 pursuits, and (ii) a regularly scheduled sleeping period of not more
 86 than eight hours, [from hours worked,] provided [(i)] (I) adequate on-
 87 site sleeping facilities are furnished to such individual, and [(ii)] (II)
 88 such individual receives at least five consecutive hours of sleep time. If
 89 the scheduled sleeping period is more than eight hours, only eight
 90 hours [will] shall be excluded. If the scheduled sleeping period is
 91 interrupted by an assignment to work, the interruption shall be
 92 counted as hours worked. If such individual does not receive at least
 93 five consecutive hours of sleep time during the scheduled sleeping
 94 period, the entire sleeping period shall be considered hours worked; [.]
 95 The provisions of this subparagraph shall be effective on and after the
 96 effective date of the United States Department of Labor's Final Rule
 97 concerning the Application of the federal Fair Labor Standards Act to
 98 Domestic Service published in the Federal Register of October 1, 2013;]

99 (3) "Employee" means employee, as defined in section 31-58.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	31-76b

Statement of Purpose:

To allow an employer and an employee providing domestic service to such employer to agree in writing to exclude meal times and certain periods of free time from the calculation of hours worked.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]